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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NOs:21366 and 22319 of 2006

DATED: 22-12-2006

W.P.No.21366 of 2006:

Between:

The Engineer-in-Chief, Administration, Erramanzil, Hyderabad

..... PETITIONER

AND

K.Anil Kumar

.....RESPONDENT

W.P.No.22319 of 2006:

Between:

The Engineer-in-Chief (R &B), Erramanzil, Hyderabad

..... PETITIONER

AND

Jayanandam

.....RESPONDENT

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COMMON ORDER: (per The Hon'ble Sri Justice Ramesh Ranganathan)

Heard the learned Government Pleader for Services-II and Sri Karanam Ramesh, learned counsel for the respondent-applicants and at their request these writ petitions were heard and are being finally disposed of.

The order of the Tribunal in O.A.Nos.6492 and 6520 of 2005 are required to be set aside on a short ground. The Tribunal had relied on Circular Memo dated 01-07-1998 and U.O.Note dated 27-04-2000, wherein three months time had been stipulated for conducting and completing an enquiry in simple cases and six months in complicated cases, in directing the respondents to conclude the disciplinary proceedings within three months from the date of receipt of a copy of the order and had held that, in case the disciplinary proceedings were not concluded within the stipulated time, the respondent-applicants be reinstated into service immediately after the stipulated period of three months expires. The Circular Memo dated 01-07-1998 and the U.O.Note dated 27-04-2000 referred to and relied upon by the Tribunal, were neither referred to in the application filed in the O.A. nor were the petitioners herein given an opportunity of being heard with regards the application of these proceedings to the case on hand.

In similar cases we have already held that the Tribunal ought to have given an opportunity to the petitioner herein to make

its submissions, with regards the applicability of the Circular Memo dated 01-07-1998 and the subsequent U.O.Note dated 27-04-2000 to the facts of the present case, before the O.As were disposed of. In all those cases we have already set aside the order of Tribunal and have remanded the matter back to the Tribunal to consider the matter afresh.

Sri Karnam Ramesh, learned counsel for the respondent-applicants would, however, submit that the peculiar facts of this case would necessitate this Court not to exercise its discretionary jurisdiction, under Article 226 of the Constitution of India, to interfere in the matter. Learned counsel would submit that despite a lapse of more than one year since the OAs were filed, not even an enquiry officer has been appointed till date. Learned counsel would also point out that pursuant to the order of the Tribunal the respondent-applicant has been reinstated into service and there is no reason why the respondent-applicants reinstatement should be interfered with in proceedings under Article 226 of the Constitution of India.

None of these submissions, urged before us, were referred to by the Tribunal. The Tribunal has only referred to the Circular Memo dated 01-07-1998 and U.O.Note dated 27-04-2000 in disposing of the OAs, even though there is no reference thereto in the application filed in the O.A.

The order of the Tribunal is set aside and the matter remanded back to the Tribunal for their adjudication afresh in accordance with law. Learned Government Pleader for Services-II would submit that a counter-affidavit would be filed in the OAs within a period of two weeks from today. The Tribunal shall dispose of the OAs within a period of three weeks from the date of receipt of a copy of this order, after hearing both sides.

The writ petitions are disposed of accordingly. However, in the circumstances, without costs.

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B.PRAKASH RAO, J

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RAMESH RANGANATHAN, J

22nd December, 2006
SKM